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Rebellion Growing as States Challenge a Federal Law to Standardize Driver's Licenses

By ERIC LIPTON

WASHINGTON, Feb. 4 — Opposition among state officials is turning into an open revolt against a federal law calling for the creation of standardized driver's licenses nationwide that are meant to be less vulnerable to fraud.

Maine legislators started off the rebellion late last month by passing a nonbinding resolution that rejected the law, called the Real ID Act, which Congress passed in 2005. They said that it would cost the state $185 million to put into place and that instead of making Maine's residents more secure, it would leave them more vulnerable to identity theft.

Since then, legislatures in five states — Georgia, Montana, New Mexico, Washington and Wyoming — have voted in committee or on the floor of one chamber to move similar legislation ahead. The bill adopted in a 99-to-1 vote by the Montana House of Representatives would go furthest, ordering state officials there to ignore the federal law.

Unless the federal law is revised, any state that defies it will risk causing major inconvenience for its residents, as noncompliant licenses will not be accepted as a proof of identification at airports, federal buildings or when applying for federal benefits.

What state officials are hoping is that Congress will repeal or modify the law, or at least provide some of the billions of dollars the states claim it will cost to establish the new licensing system nationwide.

The campaign features an odd mix of liberal Democrats, offended by a measure in the law that would effectively block illegal immigrants from getting federally compliant driver's licenses, and conservative Republicans, who see the law as an affront to civil liberties and to states' rights.

"This is a frontal assault on our freedoms," said State Representative Jim Guest of Missouri, a Republican who said he was working with more than two dozen states to pass laws opposing the federal statute. "One state standing alone is not enough. But we are already gaining strong

momentum here."

Some states are not going as far as others. Vermont passed a law that would not defy the federal statute but called for more federal financial assistance in carrying it out.

Representative F. James Sensenbrenner Jr., Republican of Wisconsin, who led the effort in Congress to pass the 2005 law, as well as top officials at the Department of Homeland Security in Washington, said they were disturbed by the growing signs of a revolt.

"Certainly, it is a threat," Mr. Sensenbrenner said Saturday in an interview.

Representative Thomas M. Davis III, Republican of Virginia, wrote a letter last week to Homeland Security Secretary Michael Chertoff asking him what would happen to the federal program if individual states opted out.

Mr. Sensenbrenner attributed the growing resistance to the department's tardiness in publishing rules telling the states what they must do under the law, which calls for new licenses to be issued starting in May 2008. He said that had led to misconceptions about the program's costs and vulnerabilities. Mr. Sensenbrenner estimated that the real costs for states nationwide would not exceed about $100 million.

Federal officials acknowledge that with the final regulations not coming out until this summer, it is likely that some states will not be ready to begin issuing licenses on schedule.

The Real ID Act requires states to confirm that documents submitted to get driver's licenses — like a birth certificate or a passport — are legitimate and that the applicants are in the United States legally. States will also have to check a linked database of state licensing data to make sure that applicants do not already have a license in another state and that they have not been banned from driving elsewhere.

The law effectively requires that all existing licenses be replaced by 2013.

The push to pass the law grew out of the attacks of Sept. 11, 2001, when some of the hijackers used driver's licenses as identification when they checked in for their flights.

Stewart A. Baker, an assistant secretary of homeland security, said opponents of the new law should remember this recent history.

"I understand there is a sense that states are being asked to do something and not being given the resources by the federal government," Mr. Baker said. "But people are forgetting that this

was a 9/11 commission recommendation and a recommendation for a very good reason."

But Barry Steinhardt of the American Civil Liberties Union said the states were raising legitimate issues. The law sets a national standard for machine-readability, most likely using bar-code-like strips where information about the owner can be scanned. This may tempt merchants to collect the data and use it for marketing purposes, Mr. Steinhardt said. The linked national database of all licensing information will also be a target for identity theft, he said.

"Real ID is a real nightmare on a number of fronts," Mr. Steinhardt said.

Lawrence Halloran, deputy minority staff director at the House Oversight and Government Reform Committee, said the growing protests were a way for states to try to force more federal aid for the cost of issuing the new licenses.

"They are saying, 'Pay me,' " he said.

Senators Daniel K. Akaka, Democrat of Hawaii, and John E. Sununu, Republican of New Hampshire, introduced a bill in December calling for the repeal of the Real ID Act.

The bill has yet to be reintroduced in the new session, with a spokesman for Mr. Akaka saying last week that he was likely to wait to see the draft rules that the Homeland Security Department publishes for public comment before deciding whether to push the cause.

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